IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

PRESENT:
THE HON'BLE SMT JUSTICE T.MEENA KUMARI

WRIT PETITION NO :32225 of 1997

DATED:12.9.2007

Between:
V.Subbarao & others

..... PETITIONERs

AND
Govt of A.P rep by its Secretary, Agricultural and Cooperation Dept Secretariat Buildings, A.P. Hyderabad & another.

.....RESPONDENTs

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

WRIT PETITION NO:32225 OF 1997

ORDER:

The petitioners have filed the present writ petition seeking to declare the proceedings in Circular No:SSDC/Admn/1993-94, dated 11.6.1994 of the 2nd respondent and the consequential proceedings of the 1st respondent in letter No:10281/A & Coop (1)/1994, dated 18.10.1997 classifying the pay scales in between the category of plant engineers having diploma and also a graduate in Engineering as arbitrary and illegal and consequently, to set aside the same by directing the respondents to allow the petitioners to draw the revised pay scales of 1993 at the rate of Rs.3110-6380 with all consequential benefits.

The grievance of the petitioners is that they are absorbed and appointed as shift operators and they are all having diplomas in mechanical engineering at the time of initial appointment itself and they are fully qualified to be appointed as plant engineers and all the petitioners have given their options to have the pay scales on par with the State Government employees and as per 1978 revised pay scales, the scale of the petitioners in the category of shift operator was Rs.530/- on 22.2.1979 and Rs.545/- on 1.2.1980. While, the petitioners have been promoted as plant engineers in the time scale of Rs.750-30-1020-35-1300, for which they have given their options adopting the scales in the same pattern of the State Government employees. By the proceedings

of the 2nd respondent in SSDC/A/10/85-86, dated 19.11.1985, the pay of the petitioners in the pay scales at Rs.750-30-1020-35-1300 was fixed plus usual allowances. By the proceedings of the 2nd respondent in SSDC/A/42/87-88/1223, dated 25.11.1987, the revised pay scales of 1986 was implemented with effect from 1.7.1986. As per the option, the respondent authorities have fixed the pay scale of the petitioners at the rate of Rs.1380-2750 with effect from 1.7.1986. There was no classification of pay scales in between the Diploma holder in Engineering and a Graduate in Engineering in the category of plant Engineers.

It is the further grievance of the petitioners that the Board of Directors of the Corporation in its 19th meeting held on 30.9.1993 decided to refer the subject matter of the revised pay scales of 1993 to the sub committee to examine the anomalies in the pay scales of the employees in the 2nd respondent Corporation and basing on the report of the sub committee as well as the consent of the Chairman, the revised pay scales of 1993 have been approved and as per the revised pay scales of 1993, it was shown at Rs.2750-5960 for diploma holders and in case of degree holders in the category of plant engineer, the scale was fixed at Rs.3110-6380. Thus, for the first time, the Corporation has classified the pay scales in between the diploma holder in Engineering and the Graduate in Engineering. Therefore, the action of the respondents is arbitrary.

Heard the learned counsel for the petitioners and the learned G.P. for Agriculture and the learned Standing counsel for A.P. Seeds Development Corporation.

In support of his contention that there cannot be any disparity in the pay scales basing on the qualification for the

same post, the learned counsel for the petitioners relied on a decision of the Apex Court reported in STATE OF MYSORE V. B.BASAVALINGAPPA ([1]) wherein it is held thus:

> **"At the time of initial appointments there was only one cadre and that was of Instructor and only one pay scale and the certificate holder or a diploma holder both were entitled to be recruited on that post. There was no material on record to infer that there was any substantial difference at that time between the two qualifications although they were described differently and that a diploma was a higher qualification. There was also no material to indicate that when the pay scales were revised it was done on the basis of some material indicating that the diploma became a better qualification than the certificate. As an Instructor the person will perform the same duties and will do the same work inspite of the fact that he may be a certificate holder or a diploma holder. Consequently, different pay scales could not be enforced for the same post merely on the basis of a holder of a certificate or a diploma. (The general question as to whether on the basis of educational qualifications different pay scales can or cannot be prescribed was not considered)."**

Now, coming to the facts of the case on hand, it is not the case of the petitioners that they were appointed as plant Engineers with their diploma in Engineering. But their case is that they were not treated on par with the Graduate in Engineering and thus, they were discriminated in respect of the pay. Apart from that, the question as to whether on the basis of educational qualifications, the pay scales can or cannot be prescribed was not considered in the above decision.

Therefore, the principles laid down in the above decision cannot be made applicable to the facts of the case on hand.

He also relied on a decision of the Apex Court reported in STATE OF UP AND OTHERS V. PRATAP NARAIN CHADDA & OTHERS ([2]) wherein it is laid down thus:

> **"It is true that as there is difference in educational qualifications the pay commission felt particularly in the light of the fact that there was no degree course available in printing technology, that once the diploma holders put in 5 years in the grade of Rs.1600-2660 they should be treated on par with the degree holders in Government polytechnic. Once the diploma holders in the institute put in 5 years they were to get the scale of Rs.2200-4000. Then they were to be equated with graduate lecturers in Government polytechnic who, to start with, were in the scale of Rs.2200-4000. Once they get this grade it would be but fair that after putting in 8 years of service in the grade of Rs.2200-4000, they should also have the same treatment as the lecturers in Government polytechnic who after 8 years of service in the grade of Rs.2200-4000 were being given the scale of Rs.3000-4500. The benefit of the scale was given after the total service of 13 years was put in by these diploma holder lecturers in the institute. This was based on the report of the pay commission and implemented upto 1993 and its withdrawal in 1993 by the Government was arbitrary and the High Court rightly set aside the same"**

In peculiar circumstances of the case wherein there was no degree course available in Printing Technology, it was held in the above decision that the withdrawal of the benefit by the Government was arbitrary. Now, coming to the facts of the

case on hand, there is no dispute as to the availability of degree course in Engineering. Therefore, I feel that the above decision does not in any way helpful to the case of the petitioners.

The 2nd respondent has filed a detailed counter.

It is seen from the counter that there was classification of pay scales between the diploma holders and graduates in the category of Plant Engineers, which was governed by the A.P. State Seeds Development Corporation Employees' Recruitment and Service Regulations, which came into force with effect from 1.6.1978. According to the said rules, there were two grades of plant engineers viz., (1) plant engineer grade-I, for which the qualifications prescribed are Degree of B.E. Mechanical Engineering or B.Sc., (agricultural) Engineering by direct recruitment, and diploma in mechanical/electrical/agricultural engineering possessed by the employees already working as plant Engineer grade-II and (2) plant engineer grade-II, for which the qualifications prescribed are degree in mechanical/electrical/agricultural engineering and experience for two years or diploma holders in mechanical/electrical/agricultural engineering with 5 years experience, by direct recruitment and 10 years experience as shift operator by promotion.

Thus, it is apparent on the face of the record that plant engineers are designated as grade-I and grade-II and filling up of the post of grade-I is only by way of direct recruitment whereas the filling up of the post of grade-II is by way of direct recruitment as well as by promotion only to those employees who possess 10 years experience as shift operator.

Now, coming to the facts of the case on hand, there is no

dispute as to the promotion of the petitioners to the post of plant engineer from the post of shift operators. If that being the case, their promotion is only to the post of plant engineer grade-II. Apart from that, as per the Service Regulations in question, mere possession of diploma in engineering is not the criteria for the promotion to the post of plant engineer grade II because it also contemplates possession of 10 years experience as shift operator besides the required academic qualification.

The classification of the post of plant engineer as grade-I, which is only by way of direct recruitment and grade-II, which is not only by way of direct recruitment but also by way of promotion subject to the fullfillment of the requirements as contemplated under the service regulations in question, is governed by the service regulations in question. This aspect has not been questioned in the writ petition. But, simply by suppressing these facts as to the classification of the post of plant engineer as grade-I and grade-II, the petitioners have approached this Court with a bald contention that there was discrimination in the pay scales of graduate engineers and diploma engineers.

In this background of the matter, I have no hesitation to hold that the petitioners have not come to the Court with clean hands. In this view of the matter, I feel that the principles laid down by the apex Court in the above citations, cannot be made applicable to the facts of the case on hand. Hence, I see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs.

(JUSTICE T.MEENAKUMARI)

12th September, 2007

gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

WRIT PETITION NO:32225 of 1997

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

12th September, 2007.

[1] AIR 1987 SC 411

[2] (2001) 9 SUPREME COURT CASES 310